

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Crompton Corporation  
199 Benson Road  
Middlebury, Ct 06749

EPA ID # CAD 009 137 779

Respondent.

Docket HWCA20020092

CONSENT ORDER

Health and Safety Code  
Section 25187



The State Department of Toxic Substances Control  
("DTSC") and Crompton Corporation ("Respondent" or "Crompton"),  
successor to Witco Corporation, enter into this Consent Order and  
agree as follows:

1. Witco formerly owned the property at 850 Morton Avenue, in Richmond, California ("Site"). The Site was formerly a hazardous waste facility ("Facility") used for the production of polymerization initiators for the production of plastic and benzoyl peroxide. The Facility was officially decommissioned on April 6, 1994 and has since been redeveloped into warehousing.

2. Witco received a post closure permit from DTSC for surface impoundments in April, 1993, that included monitoring and maintenance requirements. Before this permit expired on April

19, 1998, DTSC and Witco entered into a Consent Order (97/98-2021) which extended Witco's time to submit a post closure renewal permit application so that DTSC and the Regional Water Quality Control Board could establish an appropriate containment zone for the Facility.

3. On May 19, 1999, Witco entered into a second Consent Order with DTSC which directed the Facility to continue to comply with post closure care and corrective action requirements and which terminated the original post closure permit. The Compliance portion of ~~this~~ Consent Order directed Witco to submit to DTSC a Final Draft Corrective Measure Study for Groundwater and Soil and a Groundwater Monitoring, Sampling and Reporting Plan. The Order directed Witco to continue groundwater monitoring, sampling and reporting activities in accordance with the Post closure Plan, its Appendices and any revisions and to comply with Article 6 of Chapter 14 of the California Code of Regulations.

4. DTSC inspected the Facility on April 26, 2001, and March 25, 2003.

5. DTSC alleges the following violations:

5.1. Witco violated Health and Safety Code section 25188, and the Consent Order HWCA P2 - 98/99-004, by failing to perform all quarterly monitoring of wells W-24, W-24A, W-25, W-25A, W-26, HLAW-1, HLAW-2 and HLAW-3 between January 2000 and December 2000. The Consent Order required Witco to monitor these

wells four times per year, whereas Witco only monitored the wells twice during the calendar year. The violation was noted in a Statement of Violation dated April 27, 2001.

5.2. Witco violated [CaliforniaHealth and Safety Code, Section 25188, California Code of Regulations, Title 22, section 66264.99(e)(3), and Consent Order HWCA P2- 98/99-004, by failing to sample and analyze all Appendix IX constituents for all wells listed in the Consent Order during the calendar year 2002. Instead, Respondent untimely conducted this analysis in January, 2003.

5.3. Witco violated Consent Order HWCA P2- 98/99-004 on or about October 1, 2002 through December 31, 2002, by failing to conduct sampling and analysis for the parameters listed in the "Summary of Sampling Frequency" as detailed in the Consent Order.

5.4. Witco violated California Code of Regulations, Title 22, Section 66264.97(e)(15) by failing to obtain groundwater level measurements to determine the groundwater flow rate and direction during the fourth quarter of 2002, specifically from about October 1 through December 31, 2002.

5.5. Witco violated California Code of Regulations, Title 22, Section 66264.75(e)(3) by failing to submit its annual report on time by March 1, 2003. Instead, the report was submitted late on April 3, 2003.

6. A dispute exists regarding the alleged violations.

7. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

8. Jurisdiction exists pursuant to Health and Safety Code section 25187.

9. Respondent waives any right to a hearing in this matter.

10. This Consent Order shall constitute full settlement of the alleged violations, which are based on the April 2001 and March 2003 inspections described above, but does not limit DTSC from taking appropriate enforcement action concerning other additional or future violations.

11. Respondent must continue groundwater monitoring, sampling and reporting activities in accordance with the Post closure Plan, its Appendices and any revisions and must comply with Article 6 of Chapter 14 of the California Code of Regulations.

12. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Charlene Williams, Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, CA 94710-2721

13. Communications: All approvals and decisions of DTSC made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief,

Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by DTSC or any employee of DTSC regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed as amending this agreement or relieving Respondent of its obligation to obtain such formal approvals as may be required.

14. Department Review and Approval: If DTSC determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, DTSC may return the document to Respondent with recommended changes and a date by which Respondent must submit to DTSC a revised document incorporating the recommended changes.

15. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain any necessary permits and to assure worker safety.

16. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as specifically described in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may

be required to take further actions as are necessary to protect public health or welfare or the environment.

17. Facility Access: Crompton shall cooperate fully with the Department to help provide access to the Facility in the future. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of any law. DTSC and its authorized representatives may enter and move freely about all property at the Facility at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Facility; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

#### PAYMENTS

18. Within 60 days of the effective date of ~~this~~ Consent Order, Respondent shall pay DTSC a total of \$30,000, of which \$22,892 is a penalty and \$7,108 is reimbursement of DTSC's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Charlene Williams, Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710-2721

To: Jamie Jefferson  
Deputy Attorney General  
Department of Justice  
Office of the Attorney General  
P.O. Box 70550  
Oakland, California 94612

To: Nancy Long, Staff Counsel  
Department of Toxic Substances Control  
Office of Legal Counsel  
P.O. Box 806  
Sacramento, California 95812

If Respondent fails to make payment as provided above,  
Respondent agrees to pay interest at the rate established  
pursuant to Health and Safety Code section 25360.1 and to pay all  
costs incurred by the Department in pursuing collection including  
attorney's fees.

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OTHER PROVISIONS

19. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

20. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

21. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

22. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

23. Intesration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

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24. Compliance with Waste Discharge Requirements:

Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: \_\_\_\_\_

8/27/04

S.W. Turicchi

PST

S.W. Turicchi, Vice President, Operations  
Respondent, Crompton Corporation

Dated: \_\_\_\_\_

9/9/04

Ruth Barm

~~Ruth Barm, Director of Statewide Compliance Division~~  
~~Doug Bohmen, Senior Hazardous Waste~~  
~~Scientist (by DCS)~~

Statewide Compliance Division  
Department of Toxic Substances Control

cc: Ms. Charlene Williams, Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Suite 200  
Berkeley, CA 94710

Mr. Norman Shopay  
Hazardous Waste Management Program  
Department of Toxic Substances Control  
700 Heinz Suite 200  
Berkeley California 94710

Ms. Nancy Long  
Office of Legal Counsel  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

Mr. Kim F. Wilhelm, P. E., Chief  
Statewide Compliance Division  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Mr. Richard Sherwood, Esq.  
Office of Legal Counsel  
Department of Toxic Substances Control  
P. O. Box 806  
Sacramento, California 95812-0806

Ms. Florence Ghariban, Chief  
Southern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
1011 N. Grandview Avenue  
Glendale, California 91201

Mr. Charles McLaughlin  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Accounting Office  
Department of Toxic Substances Control

1001 I Street  
P. O. Box 806  
Sacramento, California 95812-0806

Mr. Lewis Pascalli  
Contra Costa County Health Services Department  
4333 Pacheco Blvd.  
Martinez, California 95932

Ms Wei Wei Chui  
Standardized Permits and Corrective Action Branch  
Department of Toxic Substances Control  
700 Heinz Street, Suite 200  
Berkeley, California 94710

Ms. Patti Barni  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Suite 200  
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